



Department of Energy

Idaho Operations Office
850 Energy Drive
Idaho Falls, Idaho 83401-1563

February 10, 1995

Ms. Mary Jane Nearman
Federal Facility Section
U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, WA 98101

Mr. Dave Hovland
Idaho Department of Health and Welfare
Division of Environmental Quality
Community Programs
1410 North Hilton
Boise, Idaho 83706

SUBJECT: Pit 9 Administrative Record - (OPE-ER-024-95)

Dear Ms. Nearman and Mr. Hovland:

Enclosed are copies of two documents which were sources of information during the preparation of the Explanation of Significant Differences (ESD) for Pit 9 and are being placed in the Pit 9 Administrative Record. These documents (Fixed Price Contract with Lockheed Environmental Systems and Technologies and the Documentation of Cost Differences Summarized in Support of Pit 9 ESD Development) are provided for your information.

Please contact me at (208) 526-6390 should you have any questions.

Sincerely,

A handwritten signature in black ink, which appears to read "Frank Schwartz", is written over a horizontal line.

Frank Schwartz
Environmental Restoration Program

Enclosure

cc: C. Potelunas, IDHW (IF)

January 1995

Documentation of Pit 9 Cost Differences Summarized in Support of Pit 9 Explanation of Significant Differences Development

	ROD Estimate	Fixed Price Contract Costs
Design	\$3.4M - EG&G 9/92 cost estimate summary sheet - \$3.358M	\$56.8M - Final design cost of \$43,311,064 x 1.15 (to reflect a 15% profit) = \$49,807,723 plus \$7M invested in WMES/LESAT preliminary design.
Capital (less design costs above)	\$17.3M - EG&G 9/92 estimate line items 5000 (\$5.9M) and 7000 (\$11.4M). Item 7000 total excludes system and equip testing (\$205K) and TRU storage containers (\$145K) which are O&M costs	\$52.7M - LESAT capital equipment costs of \$34,787,746 plus SAR costs of \$2,817,370 plus ORR costs of \$8,239,237 multiplied by 1.15 (to reflect 15% profit) = \$52.7M.
O&M	\$29.1M - EG&G 9/92 estimate line items 8000 and 9000. Item 8000 was reduced from \$7.2M to \$6.9M to allow some (\$300K) salvage value. Item 9000 costs carried into the ROD were overburden removal at \$60K and \$22.1M of characterization and operation and maintenance costs.	\$76.1M - LESAT O&M costs include \$4.8M for D&D (\$4.2M x 1.15), \$5.6M (\$4.85M x 1.15) for removal/handling of < 10 nCi/g material (e.g., overburden), and \$64.8M (\$56.4M x 1.15) for treatment/processing of 250K cubic feet of > 10 nCi/g material. The \$900K miscellaneous costs were the four categories of standby cost rates prenegotiated in the contract (\$786K x 1.15).

The sources of the above information are the EG&G cost Estimate for the Pit 9 Comprehensive Demonstration dated September 10, 1992, and the Fixed Price Subcontract Between Lockheed Idaho Technologies Company and Lockheed Environmental Systems and Technologies Co., Subcontract No. C91-133136, dated October 18, 1994.

This Summary was prepared by the U.S. DOE-Idaho Office.



SUBCONTRACT NO. C91-133136
(ISSUED PURSUANT TO CONTRACT
NO. DE-AC07-94ID13223 BETWEEN
U.S. DEPARTMENT OF ENERGY
AND LOCKHEED IDAHO
TECHNOLOGIES COMPANY)

Fixed Price Subcontract

Between

Lockheed Idaho Technologies Company

and

Lockheed Environmental Systems and Technologies Co.

Pit 9 Revision: October 1994

C O N T E N T S

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
	INTRODUCTION	1
1.	DEFINITIONS	1
2.	SCOPE OF WORK	2
3.	DELIVERY	2
4.	TOTAL PRICE AND PAYMENTS	3
5.	OBLIGATION OF FUNDS	8
6.	ADDITIONAL WORK SCOPE	8
7.	SUBCONTRACTOR'S ADMINISTRATION	9
8.	CONTRACTOR'S ADMINISTRATION	9
9.	NOTICES	9
10.	PATENT INDEMNITY	9
11.	PATENT RIGHTS	10
12.	STANDARD TERMS AND CONDITIONS	18
13.	INDEMNITY AND LIABILITY REQUIREMENTS	19
14.	GUARANTEE OF PERFORMANCE	20

15.	AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR	20
16.	DECONTAMINATION AND DECOMMISSIONING	20
17.	DEFENSE AUTHORIZATION ACT, § 3161	20
18.	SALES AND USE TAXES	21
19.	APPLICATION OF ACCOUNTABILITY RULE PROVISIONS TO SUBCONTRACT PERFORMANCE	21
	SIGNATURES	21

SUBCONTRACT NO. C91-133136
BETWEEN
LOCKHEED IDAHO TECHNOLOGIES COMPANY
AND
LOCKHEED ENVIRONMENTAL SYSTEMS AND TECHNOLOGIES CO.

THIS SUBCONTRACT, effective August 26, 1994, by and between Lockheed Idaho Technologies Company, a corporation organized and existing under the laws of the State of Idaho, with its principal office at Idaho Falls, Idaho, (hereinafter called the "Contractor"), acting under Contract No. DE-AC07-94ID13223 with the United States Government (hereinafter called the "Government") represented by the Idaho Operations Office of the Department of Energy (hereinafter called "DOE"), and Lockheed Environmental Systems and Technologies Co. (hereinafter called "Subcontractor").

WHEREAS, Contractor has heretofore entered into Contract No. DE-AC07-94ID13223 (hereinafter sometimes referred to as the "Prime Contract"), dated October 1, 1994, with DOE for the management and operation by Contractor of certain specified facilities at DOE's Idaho National Engineering Laboratory (INEL) in Southeastern Idaho; and

WHEREAS, Subcontractor and EG&G Idaho, Inc. (predecessor to Lockheed Idaho Technologies Company at the Idaho National Engineering Laboratory) heretofore entered into Letter Subcontract No. C91-133136 as of August 26, 1994, under which a limited scope of work was identified and authorized in accordance with the "Specifications for Pit 9 Comprehensive Demonstration", Revision 4a, dated June 24, 1994". On October 1, 1994, Letter Subcontract No. C91-133136 was assigned from EG&G Idaho, Inc. to Lockheed Idaho Technologies Company; and

WHEREAS, Subcontractor is willing to perform certain work hereinafter described in accordance with the provisions of this subcontract on a fixed price basis; and

WHEREAS, Contractor finds that Subcontractor is qualified to perform the work, all relevant factors considered, and that such performance will be in furtherance of the Prime Contract;

NOW, THEREFORE, the parties hereto agree, as follows:

Letter Subcontract No. C91-133136 is hereby merged into and made a part of this definitive subcontract. Any provisions which are inconsistent between Letter Subcontract No. C91-133136 and the definitive Subcontract No. C91-133136, the definitive subcontract shall govern;

1. DEFINITIONS

As used throughout this subcontract, the following terms shall have the meaning set forth below:

- A. The term "DOE" means the United States Department of Energy.
- B. The term "INEL" means DOE's Idaho National Engineering Laboratory in Southeastern Idaho.

- C. The term "Contracting Officer" means the Manager of the Idaho Operations Office of DOE and includes his successors or any duly authorized representative thereof.
- D. The term "Contractor" means Lockheed Idaho Technologies Company, or any duly authorized representative thereof.
- E. The term "Subcontractor" means Lockheed Environmental Systems and Technologies Co. or any duly authorized representative thereof.
- F. Phase II consists of, but is not limited to, the design (beyond the 30 percent previously authorized) of the entire facility, purchase and installation of the facility at the Idaho National Engineering Laboratory (INEL), testing of the facility to include, but not necessarily limited to, preoperational test and checkout, Operational Readiness Review (ORR), surrogate testing, and successful remediation of a small portion of Pit 9 in accordance with the specification requirements. This phase will also include various deliverables as defined in the subcontract documents.
- G. Phase III consists of, but is not limited to, the actual remediation of the entire Pit 9 contents (as referenced in Engineering Design Files ER-BWP-82 (Rev.2), ERP-BWP-64, ERP-BWP-65 (Rev.2)) in accordance with Article 2, "Scope of Work" of this subcontract, decontamination and decommissioning of the entire facility, and removal of the entire facility from the INEL. This phase will also include various deliverables as defined in the subcontract documents.

2. SCOPE OF WORK

The Subcontractor shall perform Phases II and III of the Pit 9 Comprehensive Demonstration in accordance with the "Specifications for Pit 9 Comprehensive Demonstration, Revision 4a, dated June 24, 1994", (Attachment A) and referenced applicable documents. (Phase III will not be authorized until successful completion of Phase II has been demonstrated in accordance with the terms of this subcontract.)

3. DELIVERY

Completion of the work, including the delivery of all supporting data, shall be accomplished by February 13, 1999.

The detailed schedule for completion of the various tasks is as follows:

<u>Task</u>	<u>Date</u>
Start Staging and Installation	January 1, 1995
Initiate LPT	August 15, 1996
Complete LPT Test	December 13, 1996
Complete Pit 9 Remediation	February 13, 1998
Removal of all Equipment/Facilities	February 13, 1999

In addition to the above completion dates, the Remedial Design/Remedial Action Scope of Work contains various delivery dates. The Subcontractor shall meet the dates contained in this document on a best effort basis.

4. TOTAL PRICE AND PAYMENTS

Upon acceptance by the Contractor of all the work specified in Article 2 to be performed by the Subcontractor, a total price of \$178,608,000 will be paid by the Contractor to the Subcontractor, which shall constitute full compensation for all services and material furnished by the Subcontractor under this subcontract. The total price may vary based on estimated versus actual quantities as referenced in paragraph (c) of this article.

The total price as referenced in the above paragraph is not presently available and funding will be made on the U. S. Governments fiscal year basis which begins on October 1 and expires in the following year on September 30. The present anticipated fiscal funding levels for this project are as follows:

<u>Fiscal Year</u>	<u>Funding Level</u>
1994	\$ 6,700,000
1995	\$58,600,000
1996	\$46,000,000
1997	\$41,400,000
1998	\$24,008,000
1999	\$ 1,900,000

The Subcontractor will plan expenditures and commitments for this project based on the above fiscal year funding levels.

Partial payments in the form of milestone, progress, unit price, and lump sum will be allowed in accordance with the following schedule.

1. Milestone Payments

a.	Final Design	\$43,311,064
i.	Support Facilities and Systems	\$ 4,995,525
ii.	Retrieval Facilities and Systems	\$ 6,422,763
iii.	Process/treatment facilities and systems	\$31,892,776

- | | | |
|----|------------------------------|--------------|
| b. | Safety Analysis Report | \$ 2,817,370 |
| c. | Operational Readiness Review | \$ 8,239,237 |

Subtotal		\$54,367,671
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2. Progress Payments

Equipment/facilities		\$34,787,746
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3. Unit Price Payments

Unit Price

Extended Price

- a. Analysis and handling of overburden and/or materials less than or equal to 10 nCi/g TRU (extended price at maximum cubic feet (ft³))

- 0 to 500,000 ft³
(Subcontractor is responsible for assay to determine transition from overburden to waste which requires processing)

\$ 9.69

\$ 4,845,000

Unit Price

Extended Price

- b. Remediation/processing of waste material from Pit 9 greater than 10 nCi/g TRU (extended price at maximum ft³)

NOTE:

- a) No additional analysis is required for material assayed to be ≤ 10 nCi/g.
- b) Plant is to be sized for processing 250,000 ft³ per year

- 0 to 100,000 ft³

\$341.31

\$34,131,000

- 100,001 to 250,000 ft³

\$148.22

\$22,233,000

- c. Standby Cost (unit price is based on an hourly rate and is at the direction or caused by the Contractor)

<u>Work Stage</u>	<u>Unit Price</u>	<u>Extended Price</u>
• Design (40 hours)	\$8,833	\$ 353,320
• On-Site Installation (40 hours)	\$4,816	\$ 192,640
• Limited Production Test (40 hours)	\$2,973	\$ 118,920
• Site Remediation (40 hours)	\$3,016	\$ 120,640

4. Lump Sum Payments

Decontamination and Decommissioning (D&D) \$ 4,203,664

5. Profit

Limited Production Test (LPT) \$13,373,313
Pit 9 Remediation \$ 9,208,500
D&D \$ 672,586

\$ 23,254,399

TOTAL PRICE FOR PHASES II & III

\$178,608,000

The Contractor shall pay the Subcontractor the estimated price as provided in this subcontract in accordance with and subject to the Obligation of Funds under Article 5. Reimbursement to the subcontractor will be made in the form of milestone, progress based on a schedule of values, unit pricing, and lump sum payments. The scope and payment process for each of the above shall be as follows:

(a) Milestone Payments

Milestone payments will be allowed upon completion and review of previously established milestones during the three stages of final design specified above, acceptance of the Safety Analysis Report, and verification of the Operational Readiness Review. Milestones for design related work shall be prepared by the Subcontractor and submitted to the Contractor for approval within fifteen days after award of the subcontract. Upon completion of these items by the Subcontractor and upon verification by the Contractor of the requirements stated herein, the Subcontractor will be reimbursed in accordance with the milestone payments defined in the subcontract. Payment of LPT profit, as referenced in item 5 above, will be made upon verification by the Contractor that the Subcontractor has successfully completed the Limited Production Test (LPT).

(b) Progress Payments Based on a Schedule of Values

Progress payments shall be made in accordance with the following and shall be allowed on items not identified in paragraph (a) above, actual remediation activity, and decontamination and decommissioning of facilities/equipment.

- (1) The Contractor shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contractor, on estimates mutually agreed upon by the Contractor and Subcontractor. If requested by the Contractor, the Subcontractor shall furnish a breakdown of the total subcontract price showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments.

In the preparation of estimates the Contractor may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Subcontractor at locations other than the site may also be taken into consideration if —

- (i) Consideration is specifically authorized by this subcontract; and
 - (ii) The Subcontractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this subcontract.
- (2) If the Contractor determines that during any period for which a progress payment is to be made, that Subcontractor progress was achieved in accordance with the accepted project schedule and required deliverables have been made to the Contractor, the Contractor shall authorize the progress payment to be made in full. However, if progress is not achieved in accordance with the accepted project schedule or Contractor required deliverables have not been provided, the Contractor may retain a maximum of 5 percent of the amount of the progress payment until such progress/deliverables is achieved/provided. When the work is approximately 95 percent complete, the Contractor may retain from previously withheld funds and future progress payments that amount the Contractor considers adequate for protection of the Contractor and shall release to the Subcontractor all the remaining withheld funds.

(c) Unit Price Payments

- (1) Payments to the Subcontractor in the form of unit prices will be based on the actual quantity of material remediated and processed. Items to be included in unit pricing are all associated costs/profit for the actual remediation and processing of materials in accordance with the Specification for Pit 9 Comprehensive Demonstration.

Unit price payments for remediation activities will be based on two measurements
1) handling of material ≤ 10 nCi/g TRU, and 2) processing/treatment of material
 > 10 nCi/g TRU. The Subcontractor is required to provide a measuring system,

acceptable to the Contractor, that is capable of measuring total quantity of material handled that is ≤ 10 nCi/g TRU and material > 10 nCi/g TRU entering the process/treatment system. For the purpose of calculating volume processed through the process/treatment system, sizing and shredding are not considered treatment.

The Contractor will provide oversight, at the Contractor's expense, of the measuring techniques to assure an accurate volume is being calculated. The Contractor will only provide payment for material initially entering the treatment system. Additional processing of previously processed material will be at the Subcontractor's expense.

Total unit quantity authorized for payment shall not exceed the total estimated pit quantity of 743,000 cubic feet unless previously authorized by the Contractor.

- (2) Payment for unit priced items will be issued on a monthly basis after receipt of an invoice which reflects the total quantity estimated, current quantity claimed, total quantity claimed, unit price, and extended price.
- (3) The quantities for all unit priced payment items as identified herein are estimated quantities only and the Contractor only guarantees the first 100,000 cubic feet of remediation material. There is no guarantee of quantities other than as specified in this paragraph.
- (4) Any claim for standby unit prices must be supported in detail by the Subcontractor. Information that may be required would be the cause of the standby, when it started to occur, evidence that the Subcontractor immediately notified the Contractor of the incurrence of standby costs, etc. It is the responsibility of the Subcontractor to provide clear and convincing evidence as to the incurrence of the cost and to the level of detail as may be required by the Contractor before the unit price payment will be authorized.

(d) Lump Sum Payment

The Contractor will provide a lump sum payment to the Subcontractor upon completion of decontamination and decommissioning of all associated equipment/facilities utilized in the performance of this subcontract. Completion of this activity shall be determined by the Contractor and shall occur when all the equipment/facilities have been approved by the Contractor for removal from the site location and the Subcontractor has actually removed associated equipment/material from the Idaho National Engineering Laboratory. The Subcontractor shall take into consideration any salvage value of the equipment/facilities upon completion of the project.

(e) Final Payment

The Contractor shall pay the total amount due the Subcontractor under this subcontract after --

- (1) Completion and acceptance of all work;
- (2) Presentation of a properly executed voucher; and

- (3) Presentation of release of all claims against the Contractor arising by virtue of this subcontract, other than claims, in stated amounts, that the Subcontractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Subcontractor's claim to amounts payable under this subcontract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 3727 and 41 U.S.C. 15).

Payment for the actual quantities remediated during the Limited Production Test (LPT) will be made by the Contractor based on the prices identified in the above unit pricing and the quantities removed will reduce the quantities identified in the above schedule. Payment for the quantities remediated will be issued to the Subcontractor upon successful passing, as determined by the Contractor, of the LPT criteria identified in the Specification for Pit 9 Comprehensive Demonstration.

5. OBLIGATION OF FUNDS

Of the total estimated price as contained in Article 4 above, the amount presently obligated by the Contractor for performance of the work under this subcontract is \$9,800,000.00. The Contractor shall not be obligated in any event to reimburse the Subcontractor for any charges or expenditures of any nature which are in excess of the amount obligated. When the Subcontractor's expenditures/commitments equal the amount obligated, the Subcontractor shall not be obligated to continue performance under the subcontract unless and until an authorized representative of the Contractor advises the Subcontractor in writing that the amount obligated has been increased.

6. ADDITIONAL WORK SCOPE

Additional work, relating to the processing of approximately 13 million pounds of stored waste at the Idaho National Engineering Laboratory, has been identified as part of this subcontract, thereby allowing the Subcontractor to amortize such costs as treatment processing equipment over this additional work and the recurring price of the remediation. This work scope may be performed subsequent to the remediation of Pit 9 PROVIDED, however, that appropriated funding is available for performance of the work and the Subcontractor provides full compliance with applicable federal, state, and local laws and regulations which include, but are not limited to, the Resource Conservation and Recovery Act, the Clean Air Act, the National Environmental Policy Act, the National Emission Standards for Hazardous Air Pollutants, the Toxic Substance Control Act, and the Superfund Amendments and Reauthorization Act Title III, Permits to Construct, and Stormwater Pollution Prevention relative to the applicable waste products located within the Radioactive Waste Management Complex Transuranic Storage Areas. Performance of the work is also dependent on the U.S. Government appropriating the necessary funding for this additional work scope. The Contractor or Government shall have no further obligation regarding this additional work scope if: (1) the work is not funded, or (2) if the Subcontractor fails to comply with the applicable laws and regulations relative to processing the waste product. In addition to the above, performance of this additional work scope is further conditional upon compliance with applicable competition requirements.

In the event that the Subcontractor is not allowed to proceed with this additional work for any reason, the Contractor will reimburse the Subcontractor \$21,192,000. In the event the Subcontractor proceeds with this additional work and the work is not completed by December 31, 2003, by reason of the Contractor's failure to make the work available, the Contractor will provide total payment to the Subcontractor in the amount stated above. Such payment shall be applied to the Contractor's obligation to make payment for additional work. However, any commitment for payment under this article is subject to the U.S. Government appropriating the necessary funding for such payment.

7. SUBCONTRACTOR'S ADMINISTRATION

- A. The Subcontractor responsibilities under the subcontract shall be administered by Brad Edwards, who will be available at all reasonable times in connection herewith. All formal communications shall be submitted to this person. Any change in this assignment must have prior approval of the Contractor.
- B. The Subcontractor agrees that Kirk McKinley will have overall technical direction of the work to be performed by the Subcontractor and that he will be available at all reasonable times in connection therewith. Any change in this assignment must have prior approval of the Contractor.

8. CONTRACTOR'S ADMINISTRATION

- A. Unless the Subcontractor is otherwise notified in writing, the Contractor's responsibilities under this subcontract shall be administered by Gary H. Longhurst, Subcontract Administrator, who will be available at all reasonable times in connection herewith. All administrative reports shall be submitted to the Gary H. Longhurst.
- B. Technical Jurisdiction. All work and/or services to be performed under this subcontract will be under the technical jurisdiction of Walt H. Sullivan and/or his duly authorized representative, who will be available at all reasonable times in connection herewith. Such jurisdiction is to extend only to the assignment and coordination of work within the general scope of Article 2 - Scope of Work, including schedule, final technical approval and acceptance of completed work as provided for under this subcontract. This person will be responsible for occurrence reporting for the Subcontractor.

9. NOTICES

Any notice or order provided for this subcontract shall be considered as having been given:

- A. To the Contractor, if delivered personally to Gary H. Longhurst, or if mailed by U.S. Mail addressed to Gary. H. Longhurst, P.O. Box 1625, Idaho Falls, ID 83415-3932; or
- B. To the Subcontractor, if delivered personally to its duly authorized representative at the site of work or mailed by U.S. Mail addressed to the Subcontractor at 1920 E. 17th Street, Idaho Falls, ID 83404.

10. PATENT INDEMNITY

The Subcontractor shall indemnify the Contractor and the Government and its officers, agents and employees against liability, including costs, for infringement of any U.S. Letters Patent (except U.S. Letters Patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld from issue by order of the Government) resulting from the Subcontractor's: (i) furnishing or supplying standard parts or components which have been sold or offered for sale to the public on the commercial open market; or (ii) utilizing its normal practices or methods which normally are or have been used in providing goods and services in the commercial open market, in the performance of the subcontract; or (iii) utilizing any parts, components, practices or methods to the extent which the Subcontractor has secured indemnification from liability. The foregoing indemnity shall not apply unless the Subcontractor shall have been informed as soon

as practicable by the Contractor or the Government of the suit or action alleging such infringement, and shall have been given such opportunity as is afforded by applicable laws, rules or regulations to participate in the defense thereof; and further, such indemnity shall not apply to a claimed infringement which is settled without the consent of the Subcontractor, unless required by final decree of a court of competent jurisdiction or to an infringement resulting from addition to or change in such supplies or components furnished or construction work performed for which addition or change was made subsequent to delivery or performance by the Subcontractor.

11. PATENT RIGHTS

A. Definitions

1. "Subject Invention" means any invention or discovery of the Subcontractor conceived or first actually reduced to practice in the course of or under this subcontract, and includes any art, method, process, machine, manufacture, design or composition of matter, or any new and useful improvement thereof, whether patented or unpatented under the Patent Laws of the United States of America or any foreign country.
2. "Subcontract" means any subcontract, grant, agreement, understanding or other arrangement, which includes research, development or demonstration work, and includes any assignment or substitution of parties.
3. "States and domestic municipal governments" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and any political subdivision and agencies thereof.
4. "Government agency" includes an executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the Executive Branch of the Government of the United States of America.
5. "To the point of practical application" means to manufacture, in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.
6. "Patent Counsel" means the DOE Patent Counsel assisting the procuring activity.

B. Allocation of Principal Rights

1. Assignment to the Government. The Subcontractor agrees to assign to the Government the entire right, title and interest throughout the world in and to each Subject Invention, except to the extent that rights are retained by the Subcontractor under paragraphs B.2. and C. of this article.
2. Greater Rights Determinations. The Subcontractor or the employee-inventor with authorization of the Subcontractor may request greater rights than the nonexclusive license and the foreign patent rights provided in paragraph C. of this article on identified inventions in accordance with 41 CFR 9-9.109-6(d). Such requests must be submitted to DOE Patent Counsel (with notification by Patent Counsel to the Contracting Officer) at the time of the first disclosure pursuant to paragraph

E.2. of this article, or not later than 9 months after conception or first actual reduction to practice, whichever occurs first, or such longer period as may be authorized by the DOE Patent Counsel (with notification by Patent Counsel to the Contracting Officer) for good cause shown in writing by the Subcontractor.

C. Minimum Rights to the Subcontractor

1. Subcontractor License. The Subcontractor reserves a revocable, nonexclusive, paid-up license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. The license shall extend to the Subcontractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Subcontractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Subcontractor was legally obligated to do so at the time the subcontract was awarded. The license shall be transferable only with approval of DOE except when transferred to the successor of that part of the Subcontractor's business to which the invention pertains.
2. Revocation Limitations. The Subcontractor's nonexclusive license retained pursuant to paragraph C.1. of this article and sublicenses granted thereunder may be revoked or modified by DOE, either in whole or in part, only to the extent necessary to achieve expeditious practical application of the Subject Invention under DOE's published licensing regulations (10 CFR 781), and only to the extent an exclusive license is actually granted. This license shall not be revoked in that field of use and/or the geographical areas in which the Subcontractor, or its sublicensee, has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public, or is expected to do so within a reasonable time.
3. Revocation Procedures. Before modification or revocation of the license or sublicense, pursuant to paragraph C.2. of this article, DOE shall furnish the Subcontractor a written notice of its intention to modify or revoke the license and any sublicense thereunder, and the Subcontractor shall be allowed 30 days, or such longer period as may be authorized by the DOE Patent Counsel (with notification by Patent Counsel to the Contracting Officer) for good cause shown in writing by the Subcontractor, after such notice to show cause why the license or any sublicense should not be modified or revoked. The Subcontractor shall have the right to appeal, in accordance with 10 CFR 718, any decision concerning the modification or revocation of his license or any sublicense.
4. Foreign Patent Rights. Upon written request to the DOE Patent Counsel (with notification by Patent Counsel to the Contracting Officer), and subject to DOE security regulations and requirements, there shall be reserved to the Subcontractor, or the employee-inventor with authorization of the Subcontractor, the patent rights to a Subject Invention in any foreign country where the Government has elected not to secure such rights provided:
 - (a) The recipient of such rights, when specifically requested by DOE and 3 years after issuance of a foreign patent disclosing said Subject Invention, shall furnish DOE a report setting forth: (1) The commercial use that is being made, or is intended to be made, of said invention, and (2) The steps being taken to bring the invention to the point of practical application or to make the invention available for licensing.

- (b) The Government shall retain at least an irrevocable, nonexclusive, paid-up license to make, use and sell the invention throughout the world by or on behalf of the Government (including any Government agency) and States and domestic municipal governments, unless DOE determines that it would not be in the public interest to acquire the license for the States and domestic municipal governments.
- (c) Subject to the rights granted in paragraphs C.1, 2. and 3. of this article, DOE shall have the right to terminate the foreign patent rights granted in this paragraph C.4. in whole or in part unless the recipient of such rights demonstrates to the satisfaction of DOE that effective steps necessary to accomplish substantial utilization of the invention have been taken or within a reasonable time will be taken.
- (d) Subject to the rights granted in paragraph C.1., 2. and 3. of this article DOE shall have the right, commencing 4 years after foreign patent rights are accorded under this paragraph C.4. to require the granting of a nonexclusive or partially exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances and in appropriate circumstances to terminate said foreign patent rights in whole or in part, following a hearing upon notice thereof to the public, upon a petition by an interested person justifying such hearing: (1) If DOE determines, upon review of such material as it deems relevant, and after the recipient of such rights, or other interested person, has had the opportunity to provide such relevant and material information as DOE may require, that such foreign patent rights have tended substantially to lessen competition or to result in undue market concentration in any section of the United States in any line of commerce to which the technology relates; or (2) Unless the recipient of such rights demonstrates to the satisfaction of DOE at such hearing that the recipient has taken effective steps, or within a reasonable time thereafter is expected to take such steps, necessary to accomplish substantial utilization of the invention.

D. Filing of Patent Applications

1. With respect to each Subject Invention in which the Subcontractor or the inventor requests foreign patent rights in accordance with paragraph C.4. of this article, a request may also be made for the right to file and prosecute the U. S. application on behalf of the U. S. Government. If such a request is granted, the Subcontractor or inventor shall file a domestic patent application on the invention within 6 months after the request for foreign patent rights is granted, or such longer period of time as may be approved by the DOE Patent Counsel for good cause shown in writing by the requester. With respect to the invention, the requester shall promptly notify the DOE Patent Counsel (with notification by Patent Counsel to the Contracting Officer) of any decision not to file an application.
2. For each Subject Invention on which a domestic patent application is filed by the Subcontractor or inventor, the Subcontractor or inventor shall: (a) Within 2 months after the filing of a patent application or within 2 months after submission of the invention disclosure, if the patent application has been filed previously, deliver to the DOE Patent Counsel a copy of the application as filed including the filing date and serial number; (b) Within 6 months after filing the application or within 6 months after submitting the invention disclosure if the application has been filed previously, deliver to the DOE Patent Counsel a duly executed and approved assignment to

the Government, on a form specified by the Government; (c) Provide the DOE Patent Counsel with the original patent grant promptly after a patent is issued on the application; and (d) Not less than 30 days before the expiration of the response period for any action required by the Patent and Trademark Office, notify the DOE Patent Counsel of any decision not to continue prosecution of the application.

3. With respect to each Subject Invention in which the Subcontractor or inventor has requested foreign patent rights, the Subcontractor or inventor shall file a patent application on the invention in each foreign country in which such request is granted and within one of the following periods: (a) 8 months from the date of filing a corresponding United States application, or if such an application is not filed, 6 months from the date the request was granted; (b) 6 months from the date a license is granted by the Commissioner of Patents and Trademarks to file the foreign patent application, where such filing has been prohibited by security reasons; or (c) Such longer periods as may be approved by the DOE Patent Counsel for good cause shown in writing by the Subcontractor or inventor.
4. Subject to the license specified in paragraphs C.1., 2., and 3. of this article, the Subcontractor or inventor agrees to convey to the Government, upon request, the entire right, title and interest in any foreign country in which the Subcontractor or inventor fails to have a patent application filed in accordance with paragraph D.3. of this article, or decides not to continue prosecution or to pay any maintenance fees covering the invention. To avoid forfeiture of the patent application or patent the Subcontractor or inventor shall, not less than 60 days before the expiration period for any action required by any Patent Office, notify the DOE Patent Counsel of such failure or decision, and deliver to the DOE Patent Counsel the executed instruments necessary for the conveyance specified in this paragraph.

E. Invention Identification, Disclosures, and Reports

1. The Subcontractor shall establish and maintain active and effective procedures to ensure that subject inventions are promptly identified and timely disclosed. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records that are reasonably necessary to document the conception and/or the first actual reduction to practice of subject inventions, and records which show that the procedures for identifying and disclosing the inventions are followed. Upon request, the Subcontractor shall furnish the Contractor a description of these procedures so that he may evaluate and determine their effectiveness.
2. The Subcontractor shall furnish the Patent Counsel (with notification by Patent Counsel to the Contracting Officer) on a DOE-approved form:
 - (a) A written report containing full and complete technical information concerning each subject invention within 6 months after conception or first actual reduction to practice, whichever occurs first in the course of or under this subcontract, but in any event, prior to any sale, public use, or public disclosure of such invention known to the Subcontractor. The report shall identify the subcontract and inventor and shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains, a clear understanding of the nature, purpose, operation, and to the extent known, the physical, chemical, biological, or electrical characteristics of the invention. The report should also include any request for foreign patent rights under paragraph C.4. of this article and any request to file a domestic patent

application made within the period set forth in paragraph B.2. of this article. When an invention is reported under this paragraph E.2.(a), it shall be presumed to have been conceived or first actually reduced to practice in the course of or under the subcontract unless the Subcontractor contends it was not so made in accordance with paragraph G.2.(b) of this article;

(b) Upon request, but not more than annually, interim reports on a DOE approved form listing Subject Inventions and subcontracts awarded containing a Patent Rights clause for that period and certifying that: (1) The Subcontractor's procedures for identifying and disclosing Subject Inventions as required by this paragraph E. have been followed throughout the reporting period; (2) All Subject Inventions have been disclosed or that there are no such inventions; and (3) All lower tier subcontracts containing a Patents Rights article have been reported or that no such lower tier subcontracts have been awarded; and

(c) A final report on a DOE approved form within 3 months after completion of the subcontract work listing all Subject Inventions and all lower tier subcontracts awarded containing a "Patent Rights" article and certifying that: (1) All Subject Inventions have been disclosed or that there were no such inventions; and (2) All lower tier subcontracts containing a "Patent Rights" article have been reported or that no such lower tier subcontracts have been awarded.

3. The Subcontractor shall obtain patent agreements to effectuate the provisions of this article from all persons in its employ who perform any part of the work under this subcontract except nontechnical personnel, such as clerical employees and manual laborers.

4. The Subcontractor agrees that the Government may duplicate and disclose Subject Invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this article. If the Subcontractor is to file a foreign patent application on a Subject Invention, the Government agrees, upon written request, to use its best efforts to withhold publication of such invention disclosures until the expiration of the time period specified in paragraph D.1. of this article, but in no event shall the Government or its employees be liable for any publication thereof.

F. Publication. It is recognized that during the course of the work under this subcontract, the Subcontractor or its employees may from time to time desire to release or publish information regarding scientific or technical developments conceived or first actually reduced to practice in the course of or under this subcontract. In order that public disclosure of such information will not adversely affect the patent interests of DOE or the Subcontractor, patent approval for release or publication shall be secured from the DOE Patent Counsel prior to any such release or publication.

G. Forfeiture of Rights in Unreported Subject Inventions

1. The Subcontractor shall forfeit to the Government, at the request of DOE, all rights in any Subject Invention which the Subcontractor fails to report to the DOE Patent Counsel (with notification by Patent Counsel to the Contracting Officer) within 6 months after the time the Subcontractor: (a) Files or causes to be filed a United States or foreign patent application thereon; or (b) Submits the final report required by paragraph E.2.(c) of this article, whichever is later.

2. However, the Subcontractor shall not forfeit rights in a Subject Invention if, within the time specified in 1.(a) or 1.(b) of this paragraph G., the Subcontractor: (a) Prepares a written decision based upon a review of the record that the invention was neither conceived nor first actually reduced to practice in the course of or under the subcontract and delivers the same to DOE Patent Counsel (with notification by Patent Counsel to the Contracting Officer); or (b) Contending that the invention is not a Subject Invention, the Subcontractor nevertheless discloses the invention and all facts pertinent to this contention to the DOE Patent Counsel (with notification by Patent Counsel to the Contracting Officer); or (c) Establishes that the failure to disclose did not result from the Subcontractor's fault or negligence.
3. Pending written assignment of the patent application and patents on a Subject Invention determined by DOE to be forfeited (such determination to be a final decision under the "Disputes" article of this subcontract), the Subcontractor shall be deemed to hold the invention and the patent applications and patents pertaining thereto in trust for the Government. The forfeiture provision of this paragraph G. shall be in addition to and shall not supersede other rights and remedies which the Government may have with respect to Subject Invention.

H. Examination of Records Relating to Inventions

1. The Contracting Officer or his authorized representative, until the expiration of 3 years after final payment under this subcontract, shall have the right to examine any books (including laboratory notebooks), records, documents and other supporting data of the Subcontractor which the Contracting Officer or his authorized representative reasonably deems pertinent to the discovery or identification of Subject Inventions or to determine compliance with the requirements of this article.
2. The Contracting Officer or his authorized representative shall have the right to examine all books (including laboratory notebooks), records and documents of the Subcontractor relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this subcontract to determine whether any such inventions are Subject Inventions, if the Subcontractor refuses or fails to: (a) Establish the procedures of paragraph E.1. of this article; or (b) Maintain and follow such procedures; or (c) Correct or eliminate any material deficiency in the procedures within 30 days after the Contracting Officer notifies the Subcontractor of such a deficiency.

I. Withholding of Payment

1. Any time before final payment of the amount of this subcontract, Contractor may, if it deems such action warranted, withhold payment until a reserve not exceeding \$50,000 or 5 percent of the amount of this subcontract, whichever is less, shall have been set aside if in its opinion, the Subcontractor fails to: (a) Establish, maintain and follow effective procedures for identifying and disclosing Subject Inventions pursuant to paragraph E.1. of this article; or (b) Disclose any Subject Invention pursuant to paragraph E.2.(a) of this article; or (c) Deliver the interim reports pursuant to paragraph E.2.(b) of this article; or (d) Provide the information regarding subsubcontracts pursuant to paragraph I.5. of this article; or (e) Convey to the Government using a DOE approved form, the title and/or rights of the Government in each Subject Invention as required by this article.

2. The reserve or balance shall be withheld until Contractor has determined after consultation with the DOE Patent Counsel that the Subcontractor has rectified whatever deficiencies exist and has delivered all reports, disclosures and other information required by this article.
3. Final payment under this subcontract shall not be made by the Contractor before the Subcontractor delivers to the DOE Patent Counsel all disclosures of Subject Inventions and other information required by paragraph E.2.(a) of this article, the final report required by paragraph E.2.(c) of this article, and the DOE Patent Counsel has issued a patent clearance certification to the Contractor.
4. Contractor may, in its discretion, decrease or increase the sums withheld to the maximum authorized above. If the Subcontractor is a nonprofit organization, the maximum amount that may be withheld under this paragraph shall not exceed \$50,000 or 1 percent of the amount of this subcontract, whichever is less. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the subcontract. The withholding of any amount or subsequent payment thereof shall not be construed as a waiver of any rights accruing to Contractor and/or the Government under this subcontract.

J. Lower Tier Subcontracts

1. For the purpose of this paragraph, the term "Subcontractor" means the party awarding a lower tier subcontract and the term "lower tier subcontractor" means the party being awarded a lower tier subcontract, regardless of the tier.
2. Unless otherwise authorized or directed by Contractor, the Subcontractor shall include the Patents Rights article of 41 CFR 9-9.107-5(a) or 41 CFR 9-9.107.6 as appropriate, modified to identify the parties in any lower tier subcontract hereunder having as a purpose the conduct of research, development, or demonstration work. In the event of refusal by a lower tier subcontractor to accept this article, or if in the opinion of the Subcontractor this article is inconsistent with DOE's patent policies, the Subcontractor: (a) Shall promptly submit written notice to Contractor setting forth reasons of the lower tier subcontractor refusal and other pertinent information which may expedite disposition of the matter; and (b) Shall not proceed with the lower tier subcontract without the written authorization of Contractor.
3. Except as may be otherwise provided in this article, the Subcontractor shall not, in any lower tier subcontract or by using a lower tier subcontract as consideration therefor, acquire any rights in its lower tier subcontractor's Subject Invention for the Subcontractor's own use (as distinguished from such rights as may be required solely to fulfill the Subcontractor's subcontract obligations to the Government in the performance of this subcontract).
4. All invention disclosures, reports, instruments and other information required to be furnished by the lower tier subcontractor to DOE, under the provisions of a Patent Rights article in any lower tier subcontract hereunder may, in the discretion of DOE, be furnished to the Subcontractor for transmission to DOE.
5. The Subcontractor shall promptly notify the Contractor in writing upon the award of any lower tier subcontract containing a Patent Rights article by identifying the lower tier subcontractor, the work to be performed under the lower tier subcontract, and the date of award and estimated completion. Upon the request of Contractor, the Subcontractor shall furnish a copy of the lower tier subcontract.

6. The Subcontractor shall identify all Subject Inventions of the lower tier subcontractor of which it acquires knowledge in the performance of this subcontract, and shall notify the DOE Patent Counsel (with notification by Patent Counsel to the Contracting Officer) promptly upon the identification of the inventions.
7. It is understood that the Government is a third party beneficiary of any lower tier subcontract article granting rights to the Government in Subject Inventions, and the Subcontractor hereby assigns to the Government all rights that the Subcontractor would have to enforce the lower tier subcontractor's obligations for the benefit of the Government with respect to Subject Inventions. The Subcontractor shall not be obligated to enforce the agreements of any lower tier subcontractor hereunder relating to the obligations of the lower tier subcontractor to the Government in regard to Subject Inventions.

K. Background Patents

1. "Background Patent" means a domestic patent covering an invention or discovery which is not a Subject Invention and which is owned or controlled by the Subcontractor at any time through the completion of this subcontract: (a) Which the Subcontractor, but not the Government, has the right to license to others without obligation to pay royalties thereon; and (b) Infringement of which cannot reasonably be avoided upon the practice of any specific process, method, machine, manufacture or composition of matter (including relatively minor modifications thereof) which is a subject of the research, development or demonstration work performed under this subcontract.
2. The Subcontractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive license under any Background Patent for purposes of practicing a subject of this subcontract by or for the Government in research, development, and demonstration work only.
3. The Subcontractor also agrees that upon written application by DOE, it will grant to responsible parties for purpose of practicing a subject of this subcontract, nonexclusive licenses under any Background Patent on terms that are reasonable under the circumstances. If, however, the Subcontractor believes that exclusive or partially exclusive rights are necessary to achieve expeditious commercial development or utilization, then a request may be made to DOE for DOE approval of such licensing by the Subcontractor.
4. Notwithstanding the foregoing paragraph K.3., the Subcontractor shall not be obligated to license any Background Patent if the Subcontractor demonstrates to the satisfaction of DOE that: (a) A competitive alternative to the subject matter covered by said Background Patent is commercially available or readily introducible from one or more other sources; or (b) The Subcontractor or its licensees are supplying the subject matter covered by said Background Patent in sufficient quantity and at reasonable prices to satisfy market needs, or have taken effective steps or within a reasonable time are expected to take effective steps to so supply the subject matter.

L. Atomic Energy

1. No claim for pecuniary award or compensation under the provisions of the Atomic Energy Act of 1954, as amended, shall be asserted by the Subcontractor or its employees with respect to any invention or discovery made or conceived in the course of or under this subcontract.

2. Except as otherwise authorized in writing by DOE, the Subcontractor will obtain patent agreements to effectuate the provisions of paragraph L.1. of this article from all persons who perform any part of the work under this subcontract, except nontechnical personnel such as clerical employees and manual laborers.

M. Limitations of Rights

Nothing contained in this Patent Rights article shall be deemed to give the Government any rights with respect to any invention other than a Subject Invention except as set forth in the Patent Rights article of this subcontract with respect to Background Patents and the Facilities License.

12. STANDARD TERMS AND CONDITIONS

Lockheed Idaho Technologies Company terms and conditions applicable to the work to be performed under this subcontract shall be those referenced below as EG&G Idaho, Inc. and other referenced documents. These terms and conditions shall be applied in different stages (on-site construction activities and all other work) as referenced below. The clauses contained in this subcontract shall be applicable to all work performed regardless of location and application of labor laws.

On-Site Construction Requirements

The work included under these terms and conditions shall be all efforts performed at the Idaho National Engineering Laboratory (INEL) by the Subcontractor and Sub-tier Subcontractors from the start of on-site activities up to, but not including, any testing associated with startup of the facility. Work that is performed during or after startup testing that is or was part of the previous work performed will be covered by these requirements.

- EG&G Idaho, Inc. Construction Subcontract General Provisions, dated June, 1994
- EG&G Idaho, Inc. Construction Subcontract Section I General Conditions, dated June, 1994
- Site Construction Jurisdictional Procedural Agreement, dated November 15, 1978 and last amended on August 4, 1983
- INEL Site Stabilization Agreement, including Appendices A through C, index, and footnotes
- Section II Special Conditions, dated June 13, 1994
- Subcontract Document and Applicable Technical Documents
- Appendix A Wage Rates, General Decision No. ID 910005, Modification No. 2, dated August 20, 1993
- Construction Subcontractor Health and Safety Plan, dated October, 1993
- EG&G Idaho, Inc. Environmental, Safety, and Health Requirements for Subcontractors, dated March 2, 1992
- Small Business and Small Disadvantaged Business Subcontracting Plan, dated July 12, 1994, (Revised October 13, 1994)
- Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity

Off-Site and Nonconstruction Requirements:

The work included under these terms and conditions shall be all other work to be performed under any this subcontract to include, but not limited to, equipment fabrication, design, testing, checkout, limited production testing, full scale remediation activities, dismantle and removal of demonstration facility from the INEL.

- EG&G Idaho, Inc. Standard Terms and Conditions for Purchase Orders and Subcontracts, dated June, 1994
- Additional Terms and Conditions for Phases II and III Applicable to Work Performed at the Idaho National Engineering Laboratory, dated June, 1994
- Service Contract Act of 1965, as Amended (May 1989) and Statement of Equivalent Rates for Federal Hires
- Subcontract Document and Applicable Technical Documents
- Department of Labor Wage Determination No's. 86-0887 (Revision 12, dated September 13, 1993), 86-0889 (Revision 13, dated September 14, 1993), and 86-0891 (Revision 12, dated September 14, 1993)
- EG&G Idaho, Inc. Environmental, Safety, and Health Requirements for Subcontractors, dated March 2, 1992
- Small Business and Small Disadvantaged Business Subcontracting Plan, dated July 12, 1994, (Revised October 13, 1994)

Other documents not mentioned above shall be considered applicable to all the work to be performed under this subcontract.

13. INDEMNITY AND LIABILITY REQUIREMENTS

Subcontractor will indemnify and hold harmless the Contractor and the DOE and their respective agents, contractors, and employees from all responsibility, liability, fines or penalties of any type, damages or costs (including attorney's fees), that arise as a direct result of negligent acts or omissions, willful misconduct or illegal activities of the subcontractor or any of its agents, employees or officers in performance of this subcontract. PROVIDED, however, that this provision does not include any liability that might possibly be incurred by the indemnified parties as a direct result of subcontractor's compliance with the specific requirements of this Subcontract; and PROVIDED further, that this provision does not include any liability that Contractor is indemnified against under its Prime Contract with DOE pursuant to the Price-Anderson Act. Price Anderson Act indemnification for nuclear incidents flow down to subcontractors in performance of this subcontract in accordance with the provisions of Article 26 of the Lockheed Idaho Technologies Company Standard Terms and Conditions for Purchase Orders and Subcontracts; "Representation Concerning Nuclear Hazards Indemnity".

This article is in addition to Article No. 52 entitled "Accountability Event Notification and Reporting by Subcontractor" of the Standard Terms and Conditions for Purchase Orders and Subcontracts (Rev 8-93).

14. GUARANTEE OF PERFORMANCE

In the event that the Subcontractor does not provide complete compliance with the specifications for Phase II by the completion date identified in the subcontract, the Subcontractor shall have a period of four (4) months, except for major equipment failure/redesign which the Subcontractor shall have nine (9) months, to demonstrate such compliance to the Contractor at the Subcontractors' expense. If complete compliance is not obtained by the Subcontractor in the initial period of performance plus the above referenced extension periods, the Subcontractor shall provide complete reimbursement of monies paid to the Subcontractor for work performed under Phase II. The determination of costs incurred in the performance of Phase II shall be based on those expenses that are paid to the Subcontractor by the Contractor after notification to proceed with Phase II is issued to the Subcontractor.

15. AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR

Funds are not presently available for performance under this subcontract beyond November 15, 1994. The Contractor's and Subcontractor's obligation for performance of this subcontract beyond that date is contingent upon the availability of appropriated funds from which payment for subcontract purposes can be made. No legal liability on the part of the Contractor for any payment may arise for performance under this subcontract beyond November 15, 1994, until funds are made available to the Contractor for performance and until the Subcontractor receives notice of availability, to be confirmed in writing by the Contractor.

16. DECONTAMINATION AND DECOMMISSIONING

The Subcontractor will decontaminate and decommission, as necessary, all Subcontractor equipment/facilities upon completion of the work and shall remove such equipment/facilities from the Idaho National Engineering Laboratory in accordance with the requirements of this subcontract. In the event that the Subcontractor fails to comply with Phase II requirements, the cost associated with decontamination, decommissioning, and removal of the equipment/facilities shall be at the expense of the Subcontractor.

17. DEFENSE AUTHORIZATION ACT § 3161

The Subcontractor acknowledges that the Contractor is subject to the direction of the Department of Energy regarding the application of § 3161 of the Defense Authorization Act and that the extent and applicability of said § 3161 to this subcontract is yet to be determined. Accordingly, Subcontractor agrees to comply with said § 3161 as may be determined to be applicable to this subcontract, and, further, if such compliance as directed by the Contractor results in an increase or decrease in the cost or time for performance of this subcontract, such increase or decrease shall be resolved under Article 5, "Changes" of the Standard Terms and Conditions.

18. SALES AND USE TAXES

1. No allowance for sales or use tax on items listed on Schedule "X" shall be included in Subcontractor's proposed price.
2. The Idaho Sales Tax will apply to purchases of materials by the Subcontractor under this subcontract. Payment of these sales taxes will be the responsibility of the Subcontractor.

19. APPLICATION OF ACCOUNTABILITY RULE PROVISIONS TO SUBCONTRACT PERFORMANCE

This subcontract was competed and negotiated under the terms and conditions of Prime Contract No. DE-AC07-76ID01570 between EG&G Idaho, Inc. and the Government. This Prime Contract contains provisions required by the Department of Energy's "accountability rules" published in the Federal Register on June 19, 1991. It is acknowledged that these accountability rule provisions are not contained in Prime Contract No. DE-AC07-94ID13223 between the Contractor and the Government, but are contained in this Subcontract No. C91-133136. In order to ensure this subcontract is interpreted consistent with the intent of the parties, application of the accountability rule provisions of this subcontract shall be governed by the terms and conditions of Prime Contract No. DE-AC07-76ID01570. However, the accountability rule provisions do not modify or limit the obligations of the Subcontractor, financial or otherwise, which may arise under ARTICLE 14, "GUARANTEE OF PERFORMANCE" of this subcontract.

WITNESS WHEREOF, Lockheed Idaho Technologies Company and the Subcontractor have caused this subcontract to be executed effective on the day and year first above written intending to be legally bound thereby.

LOCKHEED ENVIRONMENTAL SYSTEMS
& TECHNOLOGIES, INC.

By *Kevin Martin*
Title President
Date 12/18/90

LOCKHEED IDAHO TECHNOLOGIES
COMPANY

By *G. H. Longhurst*
G. H. Longhurst
Title Senior Subcontract Administrator
Date 10/18/94